

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

FILED
SCRANTON

FEB 27 2018

SEAN PRESSLEY,

:

PER

DEPUTY CLERK

Plaintiff,

:

CIVIL NO. 3:08-0449

v.

:

(MANNION, D.J.)¹
(MEHALCHICK, M.J.)

ADAM HUBER, *et al.*,

:

Defendants

:

MEMORANDUM

Pending before the court is the report of Magistrate Judge Karoline Mehalchick, (Doc. 155), filed on January 11, 2018, which recommends that the motions for summary judgment filed by defendants, (Doc. 127, Doc. 145), arguing that plaintiff Sean Pressley failed to exhaust his DOC administrative remedies, should be **GRANTED IN PART** and **DENIED IN PART**. Specifically, Judge Mehalchick recommends that the court find Pressley failed to exhaust his administrative remedies under DC-ADM 804 of the DOC's grievance policy, and that he only properly exhausted his claim for excessive force against defendants Huber and Zimmerman under DC-ADM 001. She also recommends that the court find Pressely failed to name the remaining defendants with respect to his excessive force claim and that he did not properly exhaust this claim as to them. As such, Judge Mehalchick

¹The above captioned matter was reassigned to the undersigned on February 21, 2017.

recommends Pressley's claim for excessive force against defendants Huber and Zimmerman should proceed, and that his remaining claims should be dismissed as well as the remaining defendants, namely, defendants Steigerwalt, Marsh, Jr., Chambers, Taggart, Kelchner, O'Hara, Beard, Yohn, Gerber, Ayers, Tabias, and Taylor.

On February 2, 2018, Pressely filed a motion for an extension of time to file objections to Judge Mehalchick's report. (Doc. 156). The court granted the motion and gave Pressely until February 16, 2018 to file his objections. To date, Pressely has not filed any objections despite the fact that the court allotted him additional time to file them.

Thus, neither Pressely nor the defendants filed objections to Judge Mehalchick's report, and the time within which to do so has expired.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed.R.Civ.P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every Report and Recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept or

modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

The court has reviewed the reasons presented by Judge Mehalchick for her recommendations. Because the court agrees with the sound reasoning that led Judge Mehalchick to the conclusions in her report and finds no clear error on the face of the record, the court will adopt the report in its entirety. An appropriate order shall issue.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: February 27, 2018

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